

Dalidio Ranch Initiative Committee

July 19, 2006

AGENDA

I. Introduction of committee members

II. Overview of the initiative

III. Planning Process

- What would be the normal process
- How that will change if the initiative passes
- County staff - process concerns (general overview)

IV. City staff concerns

V. Discussion of content of future meetings

INTRODUCTION

- Committee Members

OVERVIEW OF INITIATIVE

Authority

- Electorate is empowered to act pursuant to article II, section 11 of the California Constitution. This power is “co-extensive with the legislative power of the local governing body.” (DeVita at 775).
- General Plan amendment and zoning ordinance amendment are local legislative matters that are not of statewide concern.
 - ✓ Land use regulation is a function of local government under the police power contained in the California Constitution, article XI, section 7.

Statutory Procedural Requirements

Statutory procedural requirements imposed on the local legislative body when amending the general plan generally do not apply to the electorate.

- A. Requirement of noticed public hearings before the planning commission and legislative body. (Govt. Code sec. 65353- 65355).
- B. Public participation, public agency participation, public utility participation. (Govt. Code sec. 65351).
- C. Referral to other agencies (e.g. schools). (Govt. Code sec. 65352).

Statutory Procedural Requirements

Statutory procedural requirements imposed on the local legislative body when amending the general plan generally do not apply to the electorate.

- D. Referral to California Native American tribes (too new to know). (Govt. Code sec 65352.3 (a)(1)).
- E. Referral to Airport Land Use Commission (no case law on this issue). ALUC normally must find consistency with ALUP. Possible override by 2/3rds. (Public Utilities Code sec. 21676(b)).

CEQA

- CEQA does not apply to initiative measures when submitted by the voters.
- Election Code sec. 9111 allows some investigation of environmental impacts.

General Plan Law

Substantive requirements of the general plan law continue to apply to amendments by initiative.

- A. Initiative must be internally consistent.
- B. Initiative may not make the general plan internally inconsistent.
 - 1. Attachment E attempts to make conforming general plan amendments to comply with this.
 - 2. Potential issue with one such conforming amendment to the Ag & Open Space Element.
- C. Consistency must be maintained between the land use ordinance and the general plan.

Dalidio Initiative Components

- Dalidio Initiative Amends the San Luis Obispo Area Plan
 - ✓ Creates new Dalidio Ranch land use category

Dalidio Initiative Components

- Allowable uses include:
 - ✓ 530,000 square feet of interior commercial or retail space;
 - building footprints in Attachment D are only illustrative;
 - up to 6 major tenants in no less than 20,000 square foot buildings;
 - 140,000 square feet limit on any one building;
 - no limit on small buildings for other than major tenants (undefined);

Dalidio Initiative Components

- Allowable uses include:
 - ✓ 30,000 square feet of outdoor sales;
 - ✓ Outdoor areas
 - up to two soccer fields (storm water detention);
 - farmer's market;
 - agricultural area;
 - trails

Dalidio Initiative Components

- Allowable uses include:
 - ✓ 150 room 4-story hotel;
 - ✓ 198,000 square feet of offices;
 - ✓ 60 residential units;
 - ✓ Wastewater treatment facility & ponds.

Dalidio Initiative Components

- Dalidio Initiative Creates A Site-Specific Part of Title 22 And Excludes The Remainder
 - ✓ Land subject to the Dalidio Ranch zoning district shall not be subject to any provision of the County Code that purports to regulate or guide land use or development, except those contained in the new Dalidio Ranch part of Title 22. (22.113.010).

Dalidio Initiative Components

- All applications for development on Dalidio Ranch shall be granted ministerially so long as they comply with grading and building standards of Title 19.
 - ✓ Ministerial approvals are not subject to the California Environmental Quality Act.
 - ✓ County grading ordinance is not in Title 19 (some grading provisions in the UBC).
 - ✓ Remainder of Title 22 (development standards), Title 21 (subdivisions), Title 26 (growth management) all do not apply. Includes limitation on grocery square footage (22.10.125), signage, architectural standards, highway corridor standards etc.

Dalidio Initiative Components

- Conditions in Attachment F apply to development within the Dalidio Ranch.
 - ✓ Traffic improvement funding, phasing, community amenities, UBC compliance, storm water, lighting, air quality, biology, ag buffer, many more.
 - ✓ When an owner of a portion of the Ranch requests it to do so County shall administer conditions according to same processes used on other development projects. (22.113.030).

Dalidio Initiative Components

- Seven subareas matching the allowable uses
 - ✓ Designates allowable uses within each subarea (defined in 22.113.048).
 - ✓ Imposes various parking, height lot coverage and density standards.
 - ✓ Signs are to be reasonably consistent with signs for comparable uses in the surrounding area.

What law might apply to development activities on the Dalidio Ranch property

- Federal Law

1. Clean Water Act (section 404, NPDES II)
2. Endangered Species Act

What law might apply to development activities on the Dalidio Ranch property

- State Law
 1. Subdivision Map Act
 2. Porter-Cologne Water Quality Control Act
 3. California Endangered Species Act
 4. California Environmental Quality Act
 - but only to the extent there are discretionary decisions made

What law might apply to development activities on the Dalidio Ranch property

- Provisions of the new Dalidio Ranch zoning district in Title 22 (see section VI above).
- Grading and Building standards of Title 19 (not the location of County grading ordinance).
- Title 18 (public facility fees).
- Title 20 (street address ordinance).

Future Amendment

- Election Code requires that any future amendment of the initiative must be submitted to the voters (Elections Code sec. 4013).
- Initiative measure allows an owner of a portion of the property to apply to the Board of Supervisors to amend the initiative. (Unaware of any reported appellate decisions on such a procedure).

PLANNING PROCESS

1. Process absent the initiative
2. Changes to process if initiative passes
3. County staff process issues (overview)

PROCESS

General Plan Amendment

Land Use Permit

Construction and Grading Permits

General Plan Amendment

- This is the vehicle that an applicant uses to change the land use category (which is a combination of the General Plan designation and the Zoning designation) on a specific property

Land Use Permit

- A Land Use Permit is used to authorize a use and set conditions for its establishment and operation, and are required in addition to Construction Permits

Construction Permit

- A construction permit is needed for any project that involves building or altering a structure or its plumbing, mechanical or electrical systems
- Additionally, any project that includes grading, where soil will be removed and/or filled in, requires a permit

PROCESS

General Plan Amendment

General Plan Amendment

- An applicant applies for a General Plan Amendment
- The Board of Supervisors determines whether to authorize the processing of the General Plan Amendment

General Plan Amendment

- If authorized, a detailed project description is developed by the applicant and reviewed by County staff to use in completing the environmental review
- The project description can include both a description of the General Plan Amendment and a description of project that would require approval of a Land Use Permit if the amendment is approved

General Plan Amendment

- The request would be subject to review under the California Environmental Quality Act (CEQA)
- The preparation of an environmental document is completed – In this case that would have most likely have been an Environmental Impact Report (EIR)

General Plan Amendment

- The General Plan Amendment is heard by the Planning Commission at an advertised public hearing
- The Planning Commission makes a recommendation on the amendment to the Board of Supervisors

General Plan Amendment

- The Board of Supervisors makes a decision on the General Plan Amendment
- 30 days later the amendment becomes effective

PROCESS

Land Use Permit

Land Use Permit

- Action on the Land Use Permit could occur after the amendment is effective
- If the Environmental Document addressed the project, it can be used to comply with the requirements of CEQA

Land Use Permit

- The Land Use Permit is heard by the Planning Commission at an advertised public hearing
- The Land Use Permit establishes the conditions of approval that are required to be completed before the building permit can be issued or completed, the use established, etc.
- These conditions cannot be changed once the Planning Commission takes an action without going back to the Planning Commission for a noticed public hearing or going to the Board of Supervisors through an appeal.

Land Use Permit

- The decision on a Land Use Permit can be appealed to the Board of Supervisors
- The Board's decision is final

PROCESS

Construction and Grading Permits

Construction / Grading Permits

- Construction and Grading Permits can be applied for after the appeal period is complete or immediately after the Board of Supervisors takes action on an appeal.
- Plans are submitted and are reviewed

Construction / Grading Permits

- Initial Review

- Determines if the project is allowed within the land use category (zoning)
- Sets the fees
- Set the requirements for setbacks and height,
- Identifies the other county, state and federal agencies that need to review the project
- Identifies whether the construction plans are complete enough to allow processing

Construction / Grading Permits

- County Review
 - The plans are reviewed to assure consistency with Title 19 and the UBC
 - The plans are reviewed by any applicable county departments such as Public Works, Health Department and CDF/County Fire
 - The plans are also reviewed to assure that the proposal is consistent with the Land Use Permit conditions of approval

Construction / Grading Permits

- Outside Agency Review
 - Any necessary permits from state or federal agencies must be granted before county permits can be issued

Construction / Grading Permits

- Permit Issuance and Inspection
 - Permit is issued
 - Regular inspections occur
 - Final inspection completed – can include:
 - CDF final inspection
 - Planning “dev rev” inspection
 - Other co. dept. / agency as needed
 - Certificate of Occupancy Issued

OVERVIEW OF PROCESS

1. GPA SUBMITTED
2. GPA AUTHORIZED
3. ENVIRONMENTAL REVIEW
4. PLANNING COMMISSION HEARING
5. BOARD HEARING
6. LAND USE PERMIT SUBMITTED
7. ENVIRONMENTAL REVIEW
8. PLANNING COMMISSION HEARING
9. POSSIBLE APPEAL TO THE BOARD
10. CONSTRUCTION PERMIT SUBMITTED
11. REVIEWED FOR CONSISTENCY W/CODES, CONDITIONS & ORDINANCE STANDARDS
12. OTHER AGENCY PERMITS ISSUED
13. COUNTY PERMIT ISSUED
14. INSPECTIONS PERFORMED
15. PERMIT FINALED
16. CERTIFICATE OF OCCUPANCY ISSUED

OVERVIEW OF PROCESS IF INITIATIVE PASSES

1. GPA SUBMITTED
2. GPA AUTHORIZED
3. ENVIRONMENTAL REVIEW
4. PLANNING COMMISSION HEARING
5. BOARD HEARING
6. LAND USE PERMIT SUBMITTED
7. ENVIRONMENTAL REVIEW
8. PLANNING COMMISSION HEARING
9. POSSIBLE APPEAL TO THE BOARD
10. CONSTRUCTION PERMIT SUBMITTED
11. REVIEWED FOR CONSISTENCY W/CODES, CONDITIONS & ORDINANCE STANDARDS **(AS MODIFIED BY THE INITIATIVE)**
12. OTHER AGENCY PERMITS ISSUED
13. COUNTY PERMIT ISSUED
14. INSPECTIONS PERFORMED
15. PERMIT FINALED
16. CERTIFICATE OF OCCUPANCY ISSUED

PROCESS ISSUES

If the initiative passes

Lack of Specificity

Lack of “Triggers”

General Plan

Lack of Specificity

Typically the process allows for the review and establishment of very specific standards and conditions. The initiative does not establish conditions for many details of the project.

Example:

Conditions would have established a sign program with Square Footages, Location, and Design

Initiative states:

“Signage shall be reasonable consistent with signs for comparable uses in the surrounding area”.

Lack of Specificity

This could lead to disagreements between staff and the applicant of what can be approved because there is no clarity in the standard.

Lack of Triggers

Typically the process establishes review and timing triggers. The initiative is not always clear.

Example:

Conditions often require that information be provided “prior to issuance of construction permit”

Initiative states:

Many of the conditions refer to “prior to grading activities” which would indicate a permit for grading has been issued

Lack of Triggers

It is unknown at this time whether this lack of specific triggers could create disagreement between the applicant and staff over the timing of specific conditions that are applied to the development.

General Plan

Unintended Results

Framework for Planning - adding the Dalidio Ranch land use category

The parenthetical comment that these the land use categories are listed in order of increasing intensity of use has been struck. The overall intent of the county's designation of land use categories may be confused by this deletion

General Plan

Unintended Results

Ag and Open Space Element - delete the sentence “as well as other lands being used for production agriculture.”

The change makes the Element not applicable to lands not designated with the Agriculture land use category, but currently in production agriculture, Countywide.

This is a significant policy change for this element.

City Issues

Discussion of Future Meetings

- Potential Participants
 - County Departments
 - State Agencies
 - Regional Agencies
 - City of San Luis Obispo
- Summary Report

